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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12  
13 FOR THE COUNTY OF SAN DIEGO – CENTRAL DISTRICT  
14

15 CALIFORNIA VALLEY MIWOK TRIBE,	)	
16	)	Case No. 37-2008-00075326-CU-CO-CTL
17 Plaintiff,	)	
18	)	
19 v.	)	REPLY OF YAKIMA & MELVIN
20	)	DIXIE TO PLAINTIFFS'
21 CALIFORNIA GAMBLING CONTROL	)	OPPOSITION TO APPLICATION
22 COMMISSION, <i>et al.</i> ,	)	FOR LEAVE TO FILE BRIEF
23	)	AMICUS CURIAE
24	)	
25 Defendants,	)	
26	)	
27 YAKIMA K. DIXIE and MELVIN DIXIE,	)	
28	)	
29 Applicants /Amici.	)	
30 _____	)	

31  
32 Yakima K. Dixie and Melvin Dixie respectfully file this very brief Reply to  
33 Plaintiffs' Opposition to the Dixies' Application for Leave to File an Amicus Curiae  
34 Brief. That opposition appears in a letter dated October 7, 2008, from Plaintiffs' counsel,  
35 Manuel Corrales, Jr., to Judge Lewis.

1   **I.   APPLICANTS DO NOT SEEK TO LITIGATE THE TRIBAL**  
2   **LEADERSHIP DISPUTE IN THIS CASE.**  
3

4           Counsel for Plaintiff Silvia Burley contends that the Dixies, Applicants for *amicus*  
5   herein, argue “that the Court must resolve the tribal leadership dispute”. (October 7,  
6   2008 letter from Manuel Corrales, Jr. to Judge Lewis at page 3, hereinafter the “Letter”.)  
7   That is false. In fact, the position taken by the Dixies in the proposed Amicus Brief  
8   lodged with the Court on September 16, 2008, Part II, is that this Court does *not* have  
9   jurisdiction to determine who has authority to speak for a tribe, or to determine who has  
10   the authority to file suit in the name of a Tribe, which are political questions reserved to  
11   the federal government.<sup>1</sup> Rather, it is *plaintiff’s* position that this Court should accept her  
12   allegations that she is the recognized tribal leader, and compel the Commission to pay the  
13   tribal revenue share funds to a bank account controlled by her but in the name of the  
14   Tribe. *See* First Amended Complaint, ¶ 30.

15           Mr. Corrales further contends that “[T]he Dixies seek to improperly raise issues  
16   that are not pled in the First Amended Complaint.” Letter at page 2. However, the  
17   Dixies have simply denied plaintiff’s allegations that Ms. Burley has the authority to file  
18   suit in the name of the Tribe, and to be the Tribe’s proper recipient of the Tribe’s share of  
19   gaming revenue from the defendant California Gambling Control Commission. Mr.  
20   Corrales’ pleading contains no less than 8 (eight) paragraphs alleging that Ms. Burley is

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<sup>1</sup> That is also the position of the Commission. Memo. in Supp. Demurrer, at p. 4. Indeed, as pointed out by the Commission, its 2004 interpleader action in Sacramento County Superior Court was dismissed in response to Silvia Burley’s contention that California courts have no jurisdiction to determine who the recognized governing leader of an Indian tribe is. *Id.*

1 the tribal leader or spokesperson who is entitled to file this lawsuit in the Tribe's name  
2 and to receive the Tribe's revenue share. *See* ¶¶ 8-9, 12, 14-15, 24, 30 and 32, and page 2  
3 of the Letter, third full paragraph. Thus, it is plaintiff who has put tribal leadership at  
4 issue.

5  
6 **II. THE APPLICATION TO FILE AN AMICUS BRIEF IS NOT**  
7 **“A DISGUISED ATTEMPT’ TO AVOID COMPLIANCE**  
8 **WITH CCP SECTION 387, REGARDING INTERVENTION.**  
9

10 The Applicants seek no relief from this Court, and thus do not need to intervene in  
11 this litigation. They simply ask to be heard in their support of the position taken by  
12 defendant Commission that the Court should not compel it to pay the Tribe's gaming  
13 revenue share to Silvia Burley. If the Court does not dispose of the case by ruling in  
14 favor of the Commission's demurrer, or otherwise ruling in support of the Commission  
15 short of trial, the Dixies may consider intervening in the litigation, and offering evidence  
16 in opposition to plaintiff's case. But that is unnecessary at this time.

17  
18 **III. APPLICANTS ARE NOT ASKING THIS COURT FOR A**  
19 **DETERMINATION OF THEIR STATUS AS TRIBAL MEMBERS.**  
20

21 Plaintiff cites Williams v. Gover, 490 F.3d 785 (9<sup>th</sup> Cir. 2007), for the proposition  
22 that the Commission and the Bureau of Indian Affairs (BIA) have no authority to  
23 interfere in internal tribal issues like membership and leadership. With regard to the BIA,  
24 she has already made that argument unsuccessfully in the D.C. Circuit. *See* California  
25 Valley Miwok Tribe v. U.S. Department of the Interior, 515 F.3d 1262 (D.C. Cir. 2008).

1 There the Court recognized the broad authority of the Secretary of the Interior to decide  
2 who or what should be treated as the recognized tribal governing body.<sup>2</sup> Thus, the  
3 Commission's reliance on the BIA—awaiting its determination—is clearly justified.  
4 Besides, as stated above, *amicus* applicants are not asking this Court to adjudicate such  
5 tribal internal issues, merely to recognize that there *is* a tribal leadership dispute. The  
6 Letter from Mr. Corrales appears to have recognized just that. *See* page 2, 2d paragraph.  
7 The Commission has deposited the Tribe's revenue share into an interest-bearing account  
8 from where it will be disbursed to whoever the BIA determines speaks for the Tribe.  
9 Def.'s Memorandum in Support of Demurrer, at p. 4. Applicants simply ask this Court to  
10 hear their reasons for their support of the Commission's position, which is being  
11 challenged by plaintiffs in this case.

12  
13 Dated: October 21, 2008

Respectfully submitted,

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17 Tim Vollmann  
18 Counsel for Applicants Yakima &  
19 Melvin Dixie  
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<sup>2</sup> Not to be confused with the determination (already made by the Secretary of the Interior) that the Sheep Ranch Miwoks constitute a "federally recognized tribe." *See* Amicus brief at pp. 6-9.

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2 CERTIFICATE OF SERVICE  
3

4 I, Tim Vollmann, hereby certify that on October 21, 2008, I served the foregoing  
5 Reply to Plaintiff's Opposition to the Application for Leave to File a Brief Amicus  
6 Curiae by U.S. mail sent to the following individual attorneys, who have entered their  
7 appearances on behalf of the parties to this case:

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Tim Vollmann